

2012-1507

**THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

APPLE INC.,
Plaintiff-Appellee,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC., and
SAMSUNG TELECOMMUNICATIONS AMERICA, LLC,
Defendants-Appellants.

Appeal from the United States District Court
for the Northern District of California in
case no. 12-cv-00630, Judge Lucy H. Koh.

**APPLE'S RESPONSE TO SAMSUNG'S MOTION
TO EXPEDITE APPEAL**

Harold J. McElhinny
Michael A. Jacobs
Richard S.J. Hung
Brian R. Matsui
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105
(415) 268-7000

Josh A. Krevitt
Principal Attorney
H. Mark Lyon
GIBSON, DUNN & CRUTCHER LLP
1881 Page Mill Road
Palo Alto, CA 94304
(650) 849-5300

Mark A. Perry
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 887-3667

July 12, 2012

Attorneys for Plaintiff-Appellee Apple Inc.

**APPLE'S RESPONSE TO SAMSUNG'S MOTION
TO EXPEDITE APPEAL**

On June 29, 2012, the district court entered a preliminary injunction precluding Samsung from selling its Galaxy Nexus smartphone because Samsung's likely infringement of Apple's patented technology is inflicting irreparable injury on Apple. Doc. 221 at 101. On July 3, 2012, the district court denied Samsung's motion for a stay pending appeal. Doc. 230.

Samsung has now filed motions in this Court for a stay of the injunction and to expedite the appeal. Both motions are premised on the notion that Samsung would suffer irreparable harm from enforcement of the injunction during pendency of the appeal. *See* Mot. to Stay at 19-20; Mot. to Expedite at 5, 7. As the district court repeatedly found, however, "Samsung did not ... provide *any* evidence that it would suffer hardship in the face of an injunction." Doc. 230 at 16 (emphasis added). Apple has posted a \$95 million bond (which Samsung does not even mention) that will protect Samsung from any potential harm in the event the injunction is reversed on appeal. *See* Doc. 230 at 17.

Apple has opposed Samsung's motion for a stay, but Apple has no objection to expediting this appeal. The parties' only difference in this respect involves the briefing schedule, which Samsung unilaterally proposed and refused to negotiate with Apple before filing its motion. In particular, Samsung refused to allow Apple more than 14 days within which to prepare and file its principal brief, while Apple

seeks slightly more time to allow for coordination among client and co-counsel and to ensure that all briefs are of maximal utility to this Court. Under Apple's proposed schedule, briefing would be completed less than one month later than under Samsung's proposed schedule.

Accordingly, while Apple is prepared to adhere to any schedule that may be established by this Court, Apple sets forth below both parties' briefing proposals:

| Brief | Samsung Proposal | Samsung Date | Apple Proposal | Apple Date |
|---------------------------|--|---------------------|--|-------------------|
| Samsung's Principal Brief | 10 days after docketing | July 16 | 28 days after order | July 27 |
| Apple's Principal Brief | 14 days after service of Samsung's brief | July 30 | 28 days after service of Samsung's brief | August 24 |
| Samsung's Reply Brief | 7 days after service of Apple's brief | August 6 | 7 days after service of Apple's brief | August 31 |

Respectfully submitted this 12th day of July, 2012.

/s/ Josh A. Krevitt

Josh A. Krevitt

GIBSON, DUNN & CRUTCHER

Michael A. Jacobs
Richard S.J. Hung
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425 Market Street
San Francisco, CA 94105
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Josh A. Krevitt
Principal Attorney
H. Mark Lyon
GIBSON, DUNN & CRUTCHER LLP
1881 Page Mill Road
Palo Alto, CA 94304
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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

**APPLE, INC. v. SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.;
and SAMSUNG TELECOMMUNICATIONS AMERICA, LLC,
No. 2012-1507**

CERTIFICATE OF INTEREST

Counsel for Apple Inc. certifies the following:

1. The full name of every party or amicus represented by me is: Apple Inc.
2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is: N/A
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are: None. Apple has no parent corporation. According to Apple's Proxy Statement filed with the United States Securities and Exchange Commission in January 2011, there are no beneficial owners that hold more than 10 percent of Apple's outstanding common stock.
4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this Court are:

GIBSON, DUNN & CRUTCHER LLP

| | |
|-----------------|-------------------|
| Josh A. Krevitt | Robert A. Vincent |
| H. Mark Lyon | Jennifer J. Rho |
| Mark N. Reiter | Joshua R. Furman |
| Rodney Stone | Sarah E. Simmons |
| Jason C. Lo | Mark A. Perry |
| Brian Buroker | Blaine H. Evanson |
| Paul Torchia | |

MORRISON & FOERSTER LLP

Harold McElhinny
Michael A. Jacobs
Richard S.J. Hung
Brian R. Matsui

**WILMER CUTLER PICKERING
HALE & DORR LLP**

William F. Lee
Mark D. Selwyn
Andrew L. Liao

Date: July 12, 2012

Respectfully submitted,

/s/ Josh A. Krevitt

Josh A. Krevitt

CERTIFICATE OF SERVICE

I, Josh A. Krevitt, hereby certify that on July 12, 2012, copies of the following documents described as:

- Apple's Opposition to Samsung's Motion for a Stay Pending Appeal
- Apple's Response to Samsung's Motion to Expedite Appeal

were electronically filed with the Clerk of the Court using CM/ECF and were served via the CM/ECF system and via electronic mail on the following counsel:

William C. Price
Patrick M. Shields
Quinn Emanuel Urquhart
& Sullivan, LLP
865 South Figueroa Street
10th Floor
Los Angeles, CA 90017
(213) 443-3000
williamprice@quinnemanuel.com
patrickshields@quinnemanuel.com

Derek L. Shaffer
Quinn Emanuel Urquhart
& Sullivan, LLP
Suite 825
1299 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 538-8123
derekshaffer@quinnemanuel.com

Counsel for Defendants-Appellants Samsung Electronics Co., Ltd.; Samsung Electronics America, Inc.; and Samsung Telecommunications America, LLC

/s/ Josh A. Krevitt

Josh A. Krevitt